



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: (23-008)]

Privacy Act of 1974; System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the National Aeronautics and Space Administration is providing public notice of a modification to a previously announced system of records, Harassment Report Case Files/NASA 10HRCF. The most significant modification is that the system of records will now be exempt from certain subsections of the Privacy Act. A statement of purpose for maintaining the records was also added. Enhancements were made to the categories of individuals, the records source categories, and the records access procedures. One duplicative routine use was deleted, and three new routine uses unique to this system were added. The notice incorporates locations and NASA standard routine uses. The system of records is more fully described in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: Submit comments within 30 calendar days from the date of this publication. The proposed modifications will take effect at the end of that period if no significant adverse comments are received. Records may be released under Routine Uses No. 3 and No. 5, after 30 days from the date of this publication.

ADDRESSES: Submit comments to Bill Edwards-Bodmer, Privacy Act Officer, Office of the Chief Information Officer, Mary W. Jackson NASA Headquarters, Washington, DC 20546-0001, 757-864-3292, or NASA-PAOfficer@nasa.gov.

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Bill Edwards-Bodmer, 757-864-3292, or NASA-PAOfficer@nasa.gov.

SUPPLEMENTARY INFORMATION: This system notice includes substantial revisions to NASA's existing system of records notice (SORN) for Harassment Report Case Files/NASA 10HRCF. The most significant change is that this Privacy Act SORN will now be exempt under 5 U.S.C. sections 552a(k)(2) and (k)(5), from certain subsections of the Privacy Act. 1. The determination to exempt these records was made because it is necessary for NASA to continue to investigate violations of law, regulation, and policy and determine continued suitability for federal employment. In accordance with federal anti-discrimination laws, the Equal Employment Opportunity Commission requires that all federal agencies have an Antiharassment policy and program. NASA's specific policy prohibits harassment by all employees, provides an avenue for individuals to report allegations of harassment, and a process by which NASA fact-finders conduct inquiries/investigations. Furthermore, NASA's policy prohibits retaliation against individuals for raising allegations of harassment or participating in the process. In order for NASA to promptly address and resolve potential violations of law, regulation, or NASA policy, individuals who are participating in this process must be assured that their statements will be kept confidential consistent with law. Some investigations have been hindered by witnesses' lack of willingness to come forward fearful that their statements or identities would be revealed. Other agencies, including the EEOC, have exempted these records from certain provisions of the Privacy Act.

This SORN relies on multiple legal authorities to support exempting these records under 5 U.S.C. sections 552a(K)(2) and (K)(5), including, NASA's Antiharassment Policy, which states that NASA has an affirmative obligation to maintain a harassment-free workplace and to take prompt and effective action when allegations arise. NASA's policy encourages all employees to report concerns and for NASA to address such conduct before it becomes "severe or pervasive" within the meaning of the anti-discrimination laws. Additional authoritative sources include the Equal Opportunity Commission (EEOC), anti-discrimination laws, and Supreme Court precedent that require Agencies to take prompt and effective action if an individual is alleging harassment

by a NASA employee. Additionally, the investigatory material compiled by this system of records may be used to determine a putative harasser's suitability for continued NASA employment and such records would be exempt from release under certain provisions of the Privacy Act but only in cases where the disclosure of such information would reveal the identity of a source who provided information to NASA under the condition of anonymity.

This notice also clarifies categories of individuals on whom NASA maintains records, adds a previously omitted description of the purpose of the system, and provides more detailed descriptions of the categories of records in the system and records source categories. It updates record access procedures to include the ability to request records electronically. The notice deleted a routine use for release to contractors that is duplicated by Standard Routine Use No. 7 and adds three new routine uses unique to this System.

- The first, Routine Use 2, will permit the Agency to provide minimal information to the alleged harasser or the alleged harassee regarding the status and the results of the investigation.
- The second new routine use, Routine Use 4, allows release to officials of the Labor Union information to which they are statutorily entitled when relevant and necessary to their duties.
- The third new routine use, Routine Use 5, permits release of information to the alleged harasser in the event of a disciplinary hearing based on a charge of harassment. This notice updates technical safeguards to reflect updated security measures.

Finally, minor revisions to NASA's existing system of records notice bring its format into compliance with OMB guidance and updates records access, notification, and contesting procedures consistent with NASA Privacy Act regulations.

Cheryl Parker,
Federal Register Liaison Officer.

SYSTEM NAME AND NUMBER: Harassment Report Case Files, NASA 10HRCF.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Mary W. Jackson NASA Headquarters, Washington, DC 20546-0001.

SYSTEM MANAGER(S): Agency Anti-Harassment Coordinator, Mary W. Jackson NASA Headquarters, Washington, DC 20546-0001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 29 U.S.C. section 621 et seq.; 29 U.S.C. section 791 et. seq., 42 U.S.C. section 2000e-16 et seq.; 44 U.S.C. section 3101; 51 U.S.C. section 20113(a); E.O. 11478, 34 FR 12985; E.O. 13087, 63 FR 30097; E.O. 13152, 63 FR 26115.

PURPOSE OF THE SYSTEM: These records are maintained to facilitate NASA internal fact-finding investigations into allegations of harassment brought by current or former NASA employees, contractors, grantees, interns, applicants, and volunteers, and for taking appropriate action in accordance with NASA's policy.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: This system maintains information on individuals who have reported harassing conduct or have been accused of harassing conduct under NASA's Anti-Harassment Policy and Procedures. This includes, but is not limited to, current and former NASA employees, contractors, grantees, applicants, interns, and volunteers who have reported or been accused of allegations of harassment in violation of NASA's policy. It also includes information from witnesses contacted as part of the fact-finding process.

CATEGORIES OF RECORDS IN THE SYSTEM: This system maintains all documents related to a complaint or report of harassment, which may include the complaint, statements of witnesses, reports of interviews, information generated during fact-finding investigations, in-take forms, close-out letters, and other records related to the investigation and/or any corrective action taken because of the allegations. This system also contains case tracking information.

RECORD SOURCE CATEGORIES: The information in this system is obtained from individual complainants; Agency EEO Officials; supervisors; management officials; witnesses; current and former employees; current and former contractors, or grantees; Factfinders, the Agency Anti-Harassment Coordinator, and Center Anti-Harassment Coordinators.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES: Any disclosures of information in this system of records will be relevant, necessary, and compatible with the purpose for which the Agency collected the information. Under the following routine uses that are unique to this system of records, records from this system may be disclosed:

1. To disclose information as necessary to any appropriate source from which additional information is requested while processing a complaint or report of harassment made pursuant to NASA policy.
2. To the individual alleging harassment, the alleged harasser, or their representatives only information that is necessary to provide the status or the results of the investigation or case involving them.
3. To an authorized grievance official, deciding official, complaints examiner, administrative judge, contract investigator, arbitrator, or duly authorized official for use in investigation, administrative personnel or corrective action, litigation, or settlement of a grievance, complaint, or appeal filed by an employee.
4. To provide to officials of labor organizations recognized under the Civil Service Reform Act information to which they are statutorily entitled when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.
5. To provide to the alleged harasser information in the event of a disciplinary hearing based on a charge of harassment.

In addition, information may be disclosed under the following NASA Standard Routine Uses:

1. Law Enforcement —When a record on its face, or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order, if NASA determines by careful review that the records or information are both relevant and necessary to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.
2. Certain Disclosures to Other Agencies —A record from this SOR may be disclosed to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.
3. Certain Disclosures to Other Federal Agencies — A record from this SOR may be disclosed to a Federal agency, in response to its request, for a matter concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.
4. Department of Justice —A record from this SOR may be disclosed to the Department of Justice when a) NASA, or any component thereof; or b) any employee of NASA in his or her official capacity; or c) any employee of NASA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or d)

the United States, where NASA determines that litigation is likely to affect NASA or any of its components, is a party to litigation or has an interest in such litigation, and by careful review, the use of such records by the Department of Justice is deemed by NASA to be relevant and necessary to the litigation.

5. Courts —A record from this SOR may be disclosed in an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when NASA determines that the records are relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.
6. Response to an Actual or Suspected Compromise or Breach of Personally Identifiable Information —A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that there has been a breach of the system of records; (2) NASA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NASA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
7. Contractors —A record from this SOR may be disclosed to contractors, grantees, experts, consultants, students, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish a NASA function related to this SOR. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NASA employees.
8. Members of Congress —A record from this SOR may be disclosed to a Member of Congress or to a Congressional staff member in response to an inquiry of the

Congressional office made at the written request of the constituent about whom the record is maintained.

9. Disclosures to Other Federal Agencies in Response to an Actual or Suspected Compromise or Breach of Personally Identifiable Information —A record from this SOR may be disclosed to another Federal agency or Federal entity, when NASA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
10. National Archives and Records Administration — A record from this SOR may be disclosed as a routine use to the officers and employees of the National Archives and Records Administration (NARA) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.
11. Audit —A record from this SOR may be disclosed to another agency, or organization for purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records are maintained in paper and/or in electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are retrieved by the name of the alleged harasser, and/or by the name of the alleged harassee, or unique case identifiers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:
Records will be maintained for four years after the complaint or report of harassment is closed.

Records older than four years will be destroyed in accordance with NRRS 1441.1, NASA

Records Retention Schedules as Schedule 3, Item 53.5.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Electronic records are maintained on secure NASA servers and protected in accordance with all Federal standards and those established in NASA regulations at 14 CFR 1212.605. Additionally, server and data management environments employ infrastructure encryption technologies both in data transmission and at rest on servers. Electronic messages sent within and outside of the Agency that convey sensitive data are encrypted and transmitted by staff via pre-approved electronic encryption systems as required by NASA policy. Approved security plans are in place for information systems containing the records in accordance with the Federal Information Security Management Act of 2002 (FISMA) and OMB Circular A-130, Management of Federal Information Resources. Only authorized personnel requiring information in the official discharge of their duties are authorized access to records through approved access or authentication methods. Access to electronic records is achieved only from workstations within the NASA Intranet or via a secure Virtual Private Network (VPN) connection that requires two-factor hardware token authentication or via employee Personal Identity Certification (PIV) badge authentication from NASA-issued computers. Non-electronic records are secured in locked rooms or locked file cabinets.

RECORD ACCESS PROCEDURES: In accordance with 14 CFR part 1212, Privacy Act – NASA Regulations, and subject to exemptions described therein, individuals who wish to gain access to their records should submit their request in writing to the System Manager or Subsystem Manager at locations listed above. Requests may also be requested electronically by the individual on whom the records are maintained or by their authorized representative.

CONTESTING RECORD PROCEDURES: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

NOTIFICATION PROCEDURES: In accordance with 14 CFR part 1212, Privacy Act – NASA Regulations, information may be obtained from the cognizant system or subsystem manager listed at the above locations where the records are created and/or maintained.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: This system of records is exempt under 5 U.S.C. section 552a(k)(2) and 5 U.S.C. section 552a(k)(5) from the following subsections of the Privacy Act of 1974, specifically (c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H), and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt investigative records of the Harassment Fact-Finding Reports and Case Files has been made by the Administrator of NASA or designee in accordance with 5 U.S.C. section 552a(k)(2), 5 U.S.C. section 552a(k)(5), and the NASA regulations set forth in 14 CFR part 1212.

HISTORY:

- (11-001, 76 FR 5, pp. 1195-1197)
- (11-091, 76 FR 200, pp. 64113-64114)
- (15-068, 80 FR 193, pp. 60410-60411)

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